

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

EDIC LUNA PEREZ, #29445-078 §
VS. § CIVIL ACTION NO. 2:22cv336
UNITED STATES OF AMERICA § CRIM NO. 2:20cr00005-4

ORDER OF DISMISSAL

Movant Edic Luna Perez, a federal prisoner currently confined at Federal Correctional Institute Beaumont Low, brings this motion to vacate, set aside, or correct his federal sentence pursuant to 28 U.S.C. § 2255. The motion was referred to United States Magistrate Judge Roy S. Payne for findings of fact, conclusions of law, and recommendations for disposition of the case.

On February 5, 2025, Judge Payne issued a Report, (Dkt. #15), recommending that Movant's request for a voluntary dismissal of his lawsuit should be granted—and that this cause of action be dismissed, without prejudice, on Movant's own motion. Judge Payne further recommended that Movant be denied a certificate of appealability *sua sponte*, which would refer to this cause number only. A copy of this Report was sent to Movant at his last-known address. To date, however, Movant has neither filed objections nor communicated with the Court since his Tapp hearing on January 15, 2025.

Because objections to Judge Payne's Report have not been filed, Movant is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See*

United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #15), is **ADOPTED** as the opinion of the Court. Movant's section 2255 proceeding is **DISMISSED**, without prejudice, on Movant's own motion. Movant is further **DENIED** a certificate of appealability *sua sponte*, which refers to this cause number only and does not prevent refiling. Further, it is

ORDERED that any and all motions which may be pending are hereby **DENIED**.

So Ordered this

Mar 6, 2025



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE